IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03/12/2004

CORAM

THE HON'BLE MR.MARKANDEY KATJU, CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE N.V.BALASUBRAMANIAN

W.A.No.4034 of 2004
and
W.A.M.P.No.7607 of 2004

Rama. Muthuramalingam,
State Propaganda Committee Member,
Thanthai Periyar Dravidar Kazhagam,
No.31, Nagaraja Iyer Colony,
South Fourth Street,
Mannargudi,
Tiruvarur District. ..Appellant.

-Vs-

1.The Deputy Superintendent of Police,
Mannargudi,
Tiruvarur District.

2. The Inspector of Police,
Mannargudi Police Station,
Tiruvarur District. ..Respondents.

PRAYER: Writ appeal against the order of the learned single Judge passed in W.P.No.34001 of 2004 dated 23.11.2004, as stated therein.

!For Appellant :: Mr.Doraisamy, Senior Counsel
for Mr.V.Elangovan.

^For Respondents :: Mr.V.Raghupathy, Govt. Pleader.

:J U D G M E N T

THE HON'BLE THE CHIEF JUSTICE

This writ appeal has been filed against the Judgment of a learned single Judge of this Court dated 23.11.2004 in W.P.No.34001 of 2004 in Rama.

Muthuramalingam Vs. Deputy Superintendent of Police, Mannargudi, Tiruvarur District and another.

Heard learned counsel for the appellant and learned Government Pleader for the respondents. The appellant claiming to be a member of the State Propaganda Committee of the Thanthai Periyar Dravidar Kazhagam, a non-political party, whose main aim is said to be the abolition of the caste system in the country, has filed the writ petition. The appellant by application dated 01.11.2004 sought permission of the 2nd respondent, the Inspector of Police, Mannargudi Police Station, Tiruvarur District to conduct a public meeting on 16.11.2004 to propagate the principles of the Thanthai Periyar Dravidar Kazhagam at Panthaladi Kilpuram, Mannargudi. However, by order dated 15.11.2004, the 1st respondent refused permission to the appellant-Kazhagam to conduct a public meeting on 16.11.2004, on the ground that it could affect the law and order in the locality, as there are direct

clashes between the members of the appellant organisation and other organisations in connection with the arrest of the Sankarachariyar in an alleged murder case. The said order dated 15.11.2004 reads as follows:-

From: To: Pa.Sundararajan,
Thiru.Rama Muthuramalingam, Deputy Superintendent of Police,
District Propaganda Committee Mannargudi.
Member, Thanthai Periyar Dravidar
Kazhagam, 31, Nagaraja Iyyer Colony,
South 4th Street, Mannargudi.
----------Na.Ka.No.206/Thu.Kaa.Ka./Mannai dated 15.11.2004

Sir, Sub: Thanthai Periyar Dravidar Kazhagam meeting to be held on 16.11.2004 – rejection of permission – reg.

Ref: Your letter for meeting dated 01.11.2004

Your letter seeking permission for holding a meeting to propagate the principles of your party viz., Thanthai Periyar Dravidar Kazhagam has been considered by us. In the surcharged atmosphere following the arrest and lodgment in jail of Sankarachariyar in connection with Kanchipuram murder case several unpleasant incidents have been reported involving D.K.Party and other parties leading to law and order problems. Since, there is likelihood of recurrence of such incidents in Mannargudi, where you proposed to hold the meeting, your request for permission to hold the meeting is negatived.
2.Kindly acknowledge the receipt of the letter

/ Sd/
The Deputy Superintendent of Police,
Mannargudi.

Aggrieved by the said order dated 15.11.2004, appellant filed a writ petition before the learned single judge, which has been disposed off by the impugned order. Hence, this writ appeal. The main submission of the learned counsel for the appellant before the learned single Judge was that under Article 19(1)(a) of the Constitution of India, every citizen has got freedom of speech and expression, and under Article 19(1)(b) a citizen has a right to assemble peaceably. Before the learned single Judge, the appellant contended that his rights under Article 19(1)(a) and 19(1)(b) of the Constitution have been violated by the order of the 1st respondent dated 15.11.20 04. Paragraphs 9 and 10 of the impugned order reads as follows: Para-9: The right of the petitioner to conduct a public meeting to propagate their principles as guaranteed under Articles 19(1)(a) and 19(1)(b) of the Constitution of India could be protected only by imposing a condition that they shall not speak about the arrest of Sankarachariyar in an alleged murder case; nor justify the same; nor speak with reference to the investigation connected therewith. The organizations, which indulge themselves in any manner objecting the arrest of Sankarachariyar in an alleged murder case, either opposing or criticizing the investigation connected therewith placing reliance on Article 25 of the Constitution of India, inasmuch as the beauty of Indian democracy lies in the face of secularism and any wrinkle on the secularism would deface the beauty of Indian Democracy globally.
Para-10: In that view of the matter, suffice it to permit the petitioner to approach the competent authority seeking permission to conduct a public meeting to propagate their principles notifying the date and venue and on receipt of such application, the competent authority shall pass appropriate orders within three days from the date of receipt of the said application, on condition that the petitioner Kazhagam shall neither create any law and order problem in the locality; nor affect the public peace and tranquility; nor speak about the arrest of Sankarachariyar in an alleged murder case; nor

justify the same; nor speak with reference to the investigation connected therewith, or any other conditions as they may deem fit and necessary to maintain law and order.

The submission of the learned counsel for the appellant was that the learned single Judge could not have validly imposed the condition that the appellant should not speak about the arrest of the Sankarachariyar in the alleged murder case, nor justify the same, nor speak with respect to the investigation connected therewith, as imposition of such conditions violate the appellants fundamental rights under Articles 19(1)(a) and 19(1)(b) of the Constitution. Before, we deal with the submission of the learned counsel for the appellant, we wish to clarify the legal and constitutional position in this connection. Under our Constitution, the Legislature, the Executive and the Judiciary have there own broad spheres of operation. Ordinarily, it is not proper for one of these three organs of the State to encroach upon the domain of another, otherwise the delicate balance in the Constitution will be upset and there will be a reaction. Maintenance of law and order is ordinarily an executive function and it is ordinarily not proper for the judiciary to interfere in this matter. The administrative authorities have expertise in law and order problems through their long experience and

training, and the Courts should not ordinarily interfere in such type of matters. The judiciary must therefore exercise self-restraint and not try to interfere with the functions of the executive or the legislature. By exercising self-restraint it only enhances its prestige. This Court should not ordinarily interfere in administrative matters, since the administrative authorities are specialists in matters relating to the administration. The court does not have the expertise in such matters, and ordinarily should leave such matters to the discretion of the administrative authorities. It is only in rare and exceptional cases, where the Wednesbury principle applies, that the Court should interfere, vide Tata Cellular vs. Union of India, (1994) 6 SCC 651, Om Kumar vs. Union of India, 2001 (2) SCC 386, etc., In Haryana Financial Corporation and Another v. M/s Jagdamba Oil Mills and another (2002) 1 UPLBEC 937 (vide paragraph 10) the Supreme Court observed: "If the High Court cannot sit as an appellate authority over the decisions and orders of quasi-judicial authorities, it follows equally that it cannot do so in the case of administrative authorities. In the matter of administrative action, it is well known that more than one choice is available to the administrative authorities. They have a certain amount of discretion available to them. They have "a right to choose between more than one possible course of action upon which there is room for reasonable people to hold differing opinions as to which is to be preferred". (per Lord Diplock in Secretary of State for Education and Science V. Metropolitan Borough Counsel of Tameside, 1 977 AC 1014). The Court cannot substitute its judgment for the judgment of administrative authorities in such cases. Only when the action of the administrative authority is so unfair or unreasonable that no reasonable person would have taken that action, the Court can intervene. To quote the classic passage from the judgment of Lord Greene M. R. in Associated Provincial Picture Houses Ltd. V. Wednesbury Corporation, 1947 (2) ALL ER 680: "It is true the discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word ' unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with the discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters, which he is bound to consider. He must exclude from his consideration matters, which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting 'unreasonably.' Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority". In Tata Cellular vs Union of India AIR 1996 SC 11 (vide paragraph 113) the Supreme Court observed: (1) The modern trend points to judicial restraint in administrative action. (2) The Court does not sit as a court of appeal over administrative decisions but merely reviews the manner in which the decision was made. (3) The court does not have the expertise to correct an administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise, which itself may be fallible." In the same decision the Supreme Court observed that judicial review is concerned with reviewing not the merits of the decision but the decision making process (the Wednesbury principle). See also Pramod Kumar Misra vs. Indian Oil Corporation 2002 (4) AWC 3221, State of Kerala vs.

Joseph Antony 1994 (1) SCC 658, etc. As Lord Denning observed: "This power to overturn executive decisions must be exercised very carefully, because you have got to remember that the executive and the local authorities have their very own responsibilities and they have the right to make decisions. The courts should be very wary about interfering and only interfere in extreme cases, that is, cases where the Court is sure they have gone wrong in law or they have been utterly unreasonable. Otherwise you would get a conflict between the courts and the government and the authorities, which would be most undesirable. The courts must act very warily in this matter." (See 'Judging the World' by Garry Sturgess and Philip Chubb). In our opinion judges must maintain judicial self-restraint while exercising the powers of judicial review of administrative or legislative decisions. "In view of the complexities of modern society," wrote Justice Frankfurter, while Professor of Law at Harvard University, "and the restricted scope of any man's experience, tolerance and humility in passing judgment on the worth of the experience and beliefs of others become crucial faculties in the disposition of cases. The successful exercise of such judicial power calls for rare intellectual disinterestedness and penetration, lest limitation in personal experience and imagination operate as limitations of the Constitution. These insights Mr. Justice Holmes applied in hundreds of cases and expressed in memorable language: "It is a misfortune if a judge reads his conscious or unconscious sympathy with one side or the other prematurely into the law, and forgets that what seem to him to be first principles are believed by half his fellow men to be wrong.'" (See Frankfurter's 'Mr. Justice Holmes and the Supreme Court'). In our opinion the administrative authorities must be given freedom to do experimentations in exercising powers, provided of course they do not transgress the legal limits or act arbitrarily. The function of a judge has been described thus by Lawton LJ: " A Judge acts as a referee who can blow his judicial whistle when the ball goes out of play, but when the game restarts he must neither take part in it nor tell the players how to play" vide Laker Airways Ltd. v. Department of Trade (1977) QB 643 (724). In writing a biographical essay on the celebrated Justice Holmes of the U.S. Supreme Court in the dictionary of American Biography, Justice Frankfurter wrote: "It was not for him (Holmes) to prescribe for society or to deny it the right of experimentation within very wide limits. That was to be left for contest by the political forces in the state. The duty of the Court was to keep the ring free. He reached the democratic result by the philosophic route of scepticism " by his disbelief in ultimate answers to social questions. Thereby he exhibited the judicial function at its purest." (See 'Essays on Legal History in Honour of Felix Frankfurter' Edited by Morris D. Forkosch). In the process of judging constitutional cases, Justice Frankfurter wrote: "The core of the difficulty is that there is hardly a question of any real difficulty before the Court that does not entail more than one so-called principle. Anybody can decide a question if only a single principle is in controversy. Partisans and advocates often cast a question in that form, but the form is deceptive. In a famous passage Mr. Justice Holmes has exposed this misconception: 'All rights tend to declare themselves absolute to their logical extreme. Yet all in fact are limited by the neighborhood of principles of policy which are other than those on which the particular right is founded, and which become strong enough to hold their own when a certain point is reached." In our opinion adjudication must be done within the system

of historically validated restraints and conscious minimisation of the judges preferences. The Court must not embarrass the administrative authorities and must realise that administrative authorities have expertise in the field of administration while the Court does not. In the words of Chief Justice Neely: I have very few illusions about my own limitations as a Judge. I am not an accountant, electrical engineer, financer, banker, stockbroker or system management analyst. It is the height of folly to expect Judges intelligently to review a 5000 page record addressing the intricacies of a public utility operation. It is not the function of a Judge to act as a super board, or with the zeal of a pedantic school master substituting its judgment for that of the administrator. In administrative matters the Court should therefore ordinarily defer to the judgment of the administrators unless the decision is clearly illegal or shockingly arbitrary. In this connection Justice Frankfurter while Professor of Law at Harvard University wrote in 'The Public and its Government' - With the great men of the Supreme Court constitutional adjudication has always been statecraft. As a mere Judge, Marshall had his superiors among his colleagues. His supremacy lay in his recognition of the practical needs of government. The great judges are those to whom the Constitution is not primarily a text for interpretation but the means of ordering the life of a progressive people. In the same book Justice Frankfurter also wrote-- In simple truth, the difficulties that government encounters from law do not inhere in the Constitution. They are due to the judges who interpret it. That document has ample resources for imaginative statesmanship, if judges have imagination for statesmanship.

In Keshvananda Bharati v. State of Kerala, AIR 1973 SC 1461 (vide para 1547) Khanna, J. observed: In exercising the power of judicial review, the Courts cannot be oblivious of the practical needs of the government. The door has to be left open for trial and error. In Indian Railway Construction Co. Limited vs. Ajay Kumar (2003) 2 UPLBEC 1206 (vide para 14) the Supreme Court observed that there are three grounds on which administration action is subject to control by judicial review. The first ground is illegality, the second is irrationality and the third is procedural impropriety. These principles were highlighted by Lord Diplock in Council of Civil Service Unions v. Minister for the Civil Service 1984 (3) All ER 935. The Supreme Court observed that the Court will be slow to interfere in such matters relating to administrative functions unless the decision is tainted by any vulnerability enumerated above, like illegality, irrationality and procedural impropriety. The famous case, commonly known as the ' Wednesbury's case', is treated as the landmark in laying down various principles relating to judicial review of administrative or statutory discretion. Lord Diplock explained irrationality as follows: By irrationality I mean what can be now be succinctly referred to as Wednesbury unreasonableness. It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.

From the above standpoint the order of the Deputy Superintendent of Police, Mannargudi dated 15.11.2004 cannot be faulted, as it cannot be said to be so outrageous in defiance of logic or accepted moral standards that no sensible person could have arrived at it. It may be that a different approach could

have been adopted by the authorities, but on this ground the impugned order cannot be said to be vitiated. It may be mentioned here that Article 19(1)(a) of the Constitution, which guarantees to all citizens the right to freedom of speech and expression is subject to Article 19(2), which states: "Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, insofar as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with Foreign States, "public order", decency or morality or in relation to contempt of court, defamation or incitement to an offence."

Similarly, the right under Article 19(1)(b) to assemble peaceably and without arms is subject to Article 19(3) of the Constitution, which reads as follows: "Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law insofar as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause."

Thus, both the rights of freedom of speech and expression and the right to assemble peaceably are subject to reasonable restrictions from the point of view of public order, security of State, etc., and they are not absolute rights. The expression public order was added in Article 19(2) by the Constitution (First Amendment) Act, 1951, in order to meet the situation arising from the Supreme Court decision in Romesh Thappar Vs. State of Madras (AIR 1950 SC 124). After this amendment reasonable restrictions from the point of view of public order can be placed on the right to freedom of speech and expression and to assemble peaceably. The term "public order" is synonymous with the public peace, safety and tranquility, vide Superintendent., Central Prison, Fategargh Vs., Ram Manohar (AIR 1960 SC 633), Madhu Limaye Vs. Sub Divisional Magistrate, Monghyr (AIR 1971 SC 2486), etc., It is thus evident that the right to freedom of speech and expression and to assemble peaceably without arms is subject to reasonable restrictions from the point of view of Public Order. The question arises, who is to determine the matter relating to Public Order? The answer is given in Entry 1 to List II (State List) of the 7th Schedule to the Constitution, which states that public order is a matter within the jurisdiction of the State. Article 162 of the Constitution states: "Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the legislature of the State has power to make laws: Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof."

It is thus evident that public order is a matter within the domain of the State Legislature and the State Executive. That being so, it is not proper for the Judiciary to interfere in matters relating to public order, unless there is violation of some constitutional or statutory provision. There are various considerations for the administration in this matter and the Court

should not ordinarily interfere with administrative decisions in this connection. It must be remembered that certain matters are by their very nature such as had better be left to the experts in the field instead of the courts themselves seeking to substitute their own views and perceptions as to what is the best way to deal with the situation. In the present case, this Court should not interfere in a matter which relates to the administration, which is in the best position to know about the public order. What public order problem would arise if speeches are permitted or prohibited in connection with the arrest of Sankarachariyar and other incidental matters? How should the problem be tackled? It is the administration that best knows these problems and their solution. This Court should therefore exercise self-restraint and should n ot embarrass the administrative authorities in this connection. Before parting with this case we would like to briefly comment on the subject of judicial restraint while reviewing statutes or administrative decisions. We feel justified in making these comments because the times which this country is passing through requires clarification of the role of the judiciary vis-a-vis the executive and the legislature. Under our Constitution the Judiciary, the Legislature and the Executive have their own broad spheres of operation. It is important that these organs do not encroach on each other□s proper spheres and confine themselves to their own, otherwise there will always be danger of a reaction. Of the three organs of the State, it is only the judiciary which has the right to determine the limits of jurisdiction of all these three organs. This great power must therefore be exercised by the judiciary with the utmost humility and self - restraint. The judiciary must therefore exercise self-restraint and eschew the temptation to act as a super legislature or a Court of Appeal sitting over the decisions of the administrative authorities. By exercising self-restraint it will enhance its own respect and prestige. Of course, if a decision clearly violates some provision of the law or Constitution or is shockingly arbitrary in the Wednesbury sense, it can be struck down, but otherwise it is not for this Court to sit in appeal over the wisdom of the legislature or the executive. The Court may feel that a better decision could have been taken or some other course of action could have been adopted by the legislature or executive, but on this ground it cannot strike down the law or the administrative decision. The legislature and the executive authorities in their wisdom are free to choose different methods of solving a problem and the Court cannot say that this or that method should have been adopted. As Mr. Justice Cardozo of the U.S. Supreme Court observed in Anderson vs. Wilson, 289 U.S. 20: □We do

not pause to consider whether a statute differently conceived and framed would yield results more consonant with fairness and reason. We take this statute as we find it.□

In our opinion the same principle will apply to administrative decisions also. It must never be forgotten that the administrative authorities have wide experience in administrative matters. No Court should therefore strike down an administrative decision solely because it is perceived by it to be unwise. A Judge cannot act on the belief that he knows better than the executive on administrative matters, because he can never be justifiably certain that he is right. Judicial humility should therefore prevail over judicial activism in

this respect. Judicial restraint is consistent with and complementary to the balance of power among the three independent branches of the State. It accomplishes this in two ways. First, judicial restraint not only recognizes the equality of the other two branches with the judiciary, it also fosters that equality by minimizing interbranch interference by the judiciary. In this analysis, judicial restraint may also be called judicial respect, that is, respect by the judiciary for the other coequal branches. In contrast, judicial activism□s unpredictable results make the judiciary a moving target and thus decreases the ability to maintain equality with the co-branches. Restraint stabilizes the judiciary so that it may better function in a system of interbranch equality. Second, judicial restraint tends to protect the independence of the judiciary. When courts encroach into the legislative or administrative fields almost inevitably voters, legislators, and other elected officials will conclude that the activities of judges should be closely monitored. If judges act like legislators or administrators it follows that judges should be elected like legislators or selected and trained like administrators. This would be counterproductive. The touchstone of an independent judiciary has been its removal from the political or administrative process. Even if this removal has sometimes been less than complete, it is an ideal worthy of support and one that has had valuable effects. The constitutional trade □ off for independence is that judges must restrain themselves from the areas reserved to the other separate branches. Thus, judicial restraint complements the twin, overarching values of the independence of the judiciary and the separation of powers. The Court should always hesitate to declare statutes or administrative decisions as unconstitutional, unless it finds it clearly so. As observed by the Supreme Court in M.H. Qureshi vs. State of Bihar (supra), the Court must presume that the legislature understands and correctly appreciates the need of its own people. The legislature is free to recognize degrees of harm and may confine its restrictions to those where the need is deemed to be the clearest. In the same decision it was also observed that the legislature is the best judge of what is good for the community on whose suffrage it came into existence. In our opinion the same principle will also apply to administrative decisions.
In Lochner vs. New York, 198 U.S. 45 (1905), Mr. Justice Holmes of the U.S. Supreme Court in his dissenting judgment criticized the majority of the Court for becoming a super legislature by inventing a □ liberty of contract□ theory, thereby enforcing its particular laissez □ faire economic philosophy. Similarly, in his dissenting judgment in Griswold vs. Connecticut, 381 U.S. 479, Mr. Justice Hugo Black warned that □unbounded judicial creativity would make this Court a day-today Constitutional Convention.□ In 'The Nature of the Judicial Process' Justice Cardozo remarked: □The Judge is not a Knight errant, roaming at will in pursuit of his own ideal of beauty and goodness.□ Justice Frankfurter has pointed out that great judges have constantly admonished their brethren of the need for discipline in observing their limitations (see Frankfurter□s □Some Reflections on the Reading of Statutes□). In this connection we may usefully refer to the well-known episode in the history of the U.S. Supreme Court when it dealt with the New Deal Legislation of President Franklin Roosevelt. When President Roosevelt took office in January 1933 the country was passing through a terrible economic crisis □ the Great Depression. To overcome this, President Roosevelt initiated a series of legislation called the New Deal, which were mainly economic regulatory

measures. When these were challenged in the U.S. Supreme Court the Court began striking them down on the ground that they violated the due process clause in the U.S. Constitution. As a reaction, President Roosevelt proposed to reconstitute the Court with six more Judges to be nominated by him. This threat was enough, and it was not necessary to carry it out. The Court in 19 37 suddenly changed its approach and began upholding the laws. Economic due process met with a sudden demise. The moral of this story is that if the judiciary does not exercise restraint and over-stretches its limits there is bound to be a reaction from politicians and others. The politicians will then step in and curtail the powers, or even the independence, of the judiciary (in fact the mere threat may do, as the above example demonstrates). The judiciary should therefore confine itself to its proper sphere, realizing that in a democracy many matters and controversies are best resolved in a non-judicial setting. We hasten to add that it is not our opinion that judges should never be activist. Sometimes judicial activism is a useful adjunct to democracy such as in the School Segregation and Human Rights decisions of the U.S. Supreme Court, vide Brown v. Board of Education, 347 U.S. 483 (1954), Miranda vs. Arizona, 384 U.S. 436, Roe v. Wade, 410 U.S. 113, etc. or the decisions of our own Supreme Court which expanded the scope of Articles 14 and 21 of the Constitution. This, however, should be resorted to in exceptional circumstances when the situation forcefully demands it in the interest of the nation, but always keeping in mind that ordinarily the task of legislation or administrative decisions is for the legislature and the executive and not the judiciary.

In Dennis Vs. United States (United States Supreme Court Reports 95 Law Ed. Oct 1950 Term U.S.340-341 Mr.Justice Frankfurter observed : Courts are not representative bodies. They are not designed to be a good reflex of a democratic society. Their judgment is best informed, and therefore, most dependable, within narrow limits. Their essential quality is detachment, founded on independence. History teaches that the independence of the judiciary is jeopardized when courts become embroiled in the passions of the day and assume primary responsibility in choosing between competing political, economic and social pressures.

Having laid down the broad principles, we may now come to the facts of the present case. The order dated 15.11.2004 by the Deputy Superintendent of Police, Mannargudi has already been quoted above in this judgment. The said order has denied permission for holding a public meeting as prayed for by the appellant. Against that order the appellant filed a writ petition before this Court, which has been disposed off by the learned single Judge by his order dated 23.11.2004. In the impugned order, the learned single Judge permitted the appellant to approach the competent executive authority for seeking permission to hold a public meeting, as prayed for, and directed the said authority to pass appropriate orders within three days of the receipt of the application, provided the appellant-Kazhagam did not create any law and order problem in the locality, nor affect the public peace and tranquility. To this extent the directions of the learned single Judge are unexceptionable. However, in our opinion, the further direction of the learned single Judge in paragraph-10 of his order that the appellant should not speak about the arrest of the Sankarachariyar in the alleged murder case, nor justify the same, nor

speak with reference to the investigation connected therewith, were uncalled for and unnecessary. The learned single Judge should have left it entirely to the administrative authorities to decide in their discretion and on the facts of the case, whether speaking about the arrest of the Sankarachariyar or justifying the same or speaking with reference to the investigation connected therewith would create any law and order problem or affect the public order. In our opinion, the entire matter should have been left at the discretion of the administrative authorities, who are best equipped to decide what would disrupt the public order or the law and order situation and what would not. By saying that the appellant should not speak about the arrest of the Sankarachariyar, nor justify the same, nor speak with reference to the investigation connected therewith, the learned single Judge has in fact taken over the task of the administrative authorities, which was not within his domain. It is entirely for the administrative authorities to decide whether speaking about the arrest of the Sankarachariyar or justifying the same or speaking with reference to the investigation would create any law and order or public order problem or not. In the circumstances, we modify the direction contained in paragraph 10 of the impugned order and we leave it entirely to the discretion of the administrative authorities to decide whether permitting the appellant-Kazhagam to hold a public meeting, as prayed for, or whether speaking about the arrest of the Sankarachariyar and justifying the same, or speaking with reference to the investigation connected therewith would create a law and order or public order problem or not. If the administrative authorities feel that it may create a law and order or public order problem, then they may prohibit such activities. With the above observations, this writ appeal is disposed of. No costs. Consequently, connected W.A.M.P. is closed.

Copy to:-

1.The Deputy Superintendent of Police, Mannargudi, Tiruvarur District.
2. The Inspector of Police, Mannargudi Police Station, Tiruvarur District

L.R. Copies : Yes

Internet : Yes

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